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6	SUPERIOR COURT OF THE STATE OF CALIFORNIA
7	IN AND FOR THE COUNTY OF SIERRA
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10	In the Matter of
11	2018-2019 Sierra County Grand Jury MINUTE ORDER
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13	HONORABLE CHARLES H. ERVIN, JUDGE PRESIDING
14	The County Clerk is hereby directed to file the Sierra County Auditor's response
15	to the Sierra County Grand Jury 2018-2019 Final Report, attached hereto.
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17 18	I HEREBY CERTIFY the foregoing to be a full, true and correct copy of an order entered on the minutes of said Superior Court of the State of California, County of Sierra, this 24 th day of June, 2019.
19	ATTEST my hand and seal of the Superior Court of the State of California, County of Sierra, this 24 th day of June, 2019.
20	SIERRA SUPERIOR COURT
21	DV VC/100 FR 1100 D
22	BY <u>(MMT/W/W</u> Clerk
23	cc: Heather Foster Sierra County Clerk
24	Courthouse Downieville, CA 95936
25	
26	

28 F:\grandjury\18-19\minute order to file final BOS response.wpd

SIERRA COUNTY

County Auditor
P.O. Box 425
Downieville, California 95936
530-289-3273

Treasurer - Tax Collector P.O. Box 376 Downieville, California 95936 530-289-3286 Risk Manager
P.O. Box 513
Downieville, California 95936
530-289-3273



Sierra Superior Court 100 Courthouse Sq. Downieville, Ca. 95936

Van A. Maddox, C.P.A. Auditor/Treasurer-Tax Collector

> Caleb Nelson, C.P.A. Chief Deputy Auditor

Re: Response to Sierra County 2019 Grand Jury Report - Section 1.3 Finding F1.3.4

Jenny Varn Assistant Treasurer-Tax Collector

Early in the 2018 calendar year, I was informed that a Sierra County Board member had put in for travel to a meeting he had not attended. Along with having requested and received payments from both the County and the Transportation Commission for the same travel. The Auditor's Office investigated and found multiple occurrences of the above over the last three years adding up to \$608.06.

At the time of the investigation I was informed by the District Attorney \$1 of miss-appropriated funds by a government official could be a felony. At the conclusion of the examination of reimbursement records all information was handed over to the Sheriff for investigation.

In July 2018 a letter and supporting documents were sent to the County Supervisor and a request was made for repayment. The Supervisor refused to repay Sierra County and the Auditor's Office continued to work with the Supervisor trying to get repayment until December. With the last full check of salary to be issued to the Supervisor, I decided we would reduce that check by the amount owed. This action was taken after consulting with Sierra County Counsel.

Elected officials are not employees under the law. (29 USC § 630 (f); Brown Act. Gov Code Section 54957; 59 Cal. Opp. Atty. Gen. 266; Cal. Const., Art 7, § 4). This issue has also been tried in Sierra County Small Claims Court about 15 years ago when another elected official miss appropriated County funds and sued me personally when I also reduced her check by the miss-appropriated funds. The Judge agreed that elected are not employees and ruled in my favor.

The finding F1.3.4 states my action may not be legal and then attached California Code sections that apply only to employees not elected. The code section do not apply to elected since we are not employees under federal law or California law. (29 USC § 630(f); Brown Act. Gov. Code Section 54957; 59 Cal. Opp. Atty. Gen. 266; Cal. Const., Art 7, § 4).

As for not informing the Supervisor his check would be reduced – the Auditor's Office worked with him for nearly six months to get the funds repaid.

The Grand Jury report seems to have no concern for a top county official's misuse of the Peoples money but seem to insist they be concern for a top county official's misuse of the Peoples money

Sincerely, Van A. Maddox

June 24, 2019

Sierra County Auditor/Treasurer Tax -Collector